See *Duke of Somerset* v. *Fogwell*, 5 B. & C. 875; 2 BL. COMM. 39. *Cf. Rogers* v. *Jones*, 1 Wend. (N. Y.) 238. This privilege is held by the sovereign for the benefit of all his subjects, and *primâ facie* any one may fish in public waters. *Carter* v. *Murcot*, 4 Burr. 2162; *Polhemus* v. *Bateman*, 60 N. J. L. 163. But at an early date the legislature granted exclusive rights to individuals, or permitted towns to exclude non-residents. BODY OF LIBERTIES, ART. 16, 28 Mass. Hist. Soc. Coll. 219; *Trustees of Brookhaven* v. *Strong*, 60 N. Y. 56. Where the grant is absolute or for a definite time, it is in the nature of a vested property right which cannot be disturbed during its term, and it is not a violation of the Fourteenth Amendment. *Lowndes* v. *Huntington*, 153 U. S. 1; *Hand* v. *Newton*, 92 N. Y. 88. As in the case of public lands, the state may grant to individuals rights in the public property. But if it gives only a revocable license, the state is merely tolerating a use of its property, — granting a privilege rather than a property right. *Slingerland* v. *International Contracting Co.*, 43 N. Y. App. Div. 215. Since the state holds the property for the benefit of all its citizens, it should not be allowed to restrict such a privilege to a few. *Cf. Harper* v. *Galloway*, 51 So. 226 (Fla.). *Contra*, *Commonwealth* v. *Hilton*, 174 Mass. 29. It could, of course, limit the privilege to citizens of the State. *Corfield* v. *Coryell*, 4 Wash. C. C. 371.

CORPORATIONS — FOREIGN CORPORATIONS — JURISDICTION OVER INTERNAL AFFAIRS. — A stockholder of a foreign corporation brought *mandamus* to compel the secretary and directors to hold a stockholder's meeting pursuant to the by-laws. The corporation had its principal office in the state, and the secretary and directors were resident there. *Held*, that the court has no jurisdiction over the corporation for this purpose. *State ex rel. Ferenez* v. *Unida Gold Mining Co.*, 32 Oh. Cir. Ct. R. 54.

As the corporation is a necessary party in an action by a stockholder to redress a grievance in the corporate management, such a proceeding is impossible unless service can be had upon the corporation. *Wilkins* v. *Thorne*, 60 Md. 253. And statutes requiring foreign corporations doing business in the state to maintain an agent therein on whom process may be served are construed by some courts as not giving jurisdiction over the internal affairs of such a corporation. *Sidway* v. *Missouri Land & Livestock Co.*, 101 Fed. 481. Usually, however, the courts recognize that they have jurisdiction, but decline to exercise it where so doing would involve, as here, ordering or restraining an act in a foreign jurisdiction, on the ground of inability to compel obedience and on the ground that the state of incorporation is the best judge of its own law governing such matters. *Kimball* v. *St. Louis & San Francisco Ry. Co.*, 157 Mass. 7. But when the transaction occurs in the state of the *forum* the latter reason has not always deterred the courts from granting relief. Thus they will compel the corporation to allow a stockholder access to its books when they are in the custody of an officer in the state. *State ex rel. Richardson* v. *Swift*, 7 Houst. (Del.) 137. And they will enjoin the carrying on of an *ultra vires* undertaking within the state when all the property and the directors are within the state. *Richardson* v. *Clinton Wall Trunk Mfg. Co.*, 181 Mass. 580.

COSTS — LIABILITY OF INFANT TO INDEMNIFY NEXT FRIEND. — The plaintiff as next friend of the defendant, an infant, properly instituted and conducted an action in the interest of the defendant, which was dismissed, with costs to be paid by the next friend. The plaintiff brought an action to recover those costs from the infant. *Held*, that the plaintiff can recover. *Steeden* v. *Walden*, [1910] 2 Ch. 393.

Apart from statute the weight of authority in England and this country seems to be that the next friend is liable for costs in the first instance. *Swain* v. *Follows*, 18 Q. B. D. 585; *Smith* v. *Gaffard*, 33 Ala. 168. However, a very respect-

able minority hold the infant. *Crandall* v. *Slaid*, 11 Met. (Mass.) 288; *Albee* v. *Winterink*, 55 Ia. 184. Since the next friend is held in the first instance in England, the principal case seems clearly right in allowing this action over against the infant. This is law in America. *Voorhees* v. *Polhemus*, 36 N. J. Eq. 456. If the question were *res integra* it would seem best to hold the infant liable for costs primarily, as he is the real party in interest. The next friend is merely an officer of the court. See *Davies* v. *Lockett*, 4 Taunt. 765; *Klaus* v. *State*, 54 Miss. 644. The objection that the next friend can sue without the infant's consent raises a broad question of policy, whether he should be restrained by imposing liability for costs. He certainly should not be unduly discouraged. *Cross* v. *Cross*, 8 Beav. 455. The infant's interests seem sufficiently guarded by charging the next friend when suits are improper. *Pearce* v. *Pearce*, 9 Ves. Jr. 548; *Campbell* v. *Campbell*, 2 Myl. & C. 25. There is also the additional protection that the court may remove the next friend whenever his conduct appears questionable. *Robinson* v. *Talbot*, 78 S. W. 1108 (Ky.); *Barwick* v. *Rackley*, 45 Ala. 215.

CRIMINAL LAW — APPEAL — SENTENCE INCREASED ON APPEAL. — The Criminal Appeal Act of 1907 provided that on appeal by a prisoner, the higher court might quash the original sentence and pass another sentence warranted in law by the verdict (whether more or less severe). The prisoner appealed from a sentence of twelve years' imprisonment for shooting with intent to murder. *Held*, that the sentence can be increased to fifteen years. *Rex* v. *Simpson*, 74 J. P. 533 (Eng., Ct. Crim. App., Oct. 24, 1910).

Since the English courts have no power to declare unconstitutional an act of Parliament, the decision is unquestionably correct. In this country, such a statute would not deprive the prisoner of liberty without due process of law, for due process does not require any right to appeal. *Andrews* v. *Swartz*, 156 U. S. 272. Nor would it violate constitutional provisions against double jeopardy in those jurisdictions which allow conviction of a crime of higher degree (as murder) on a new trial after an appeal from conviction of a crime of lower degree (as manslaughter). *Trono* v. *United States*, 199 U. S. 521. See 19 HARV. L. REV. 300. And even where the contrary is held, a strong argument might be made for the constitutionality of an increased sentence for the same crime on appeal or on a new trial. The statute in question seems a most sensible one, for it discourages frivolous appeals without forbidding meritorious ones, and it partially remedies the defect in our system of criminal law of denying to the prosecution a right of appeal.

DANGEROUS PREMISES — LIABILITY TO TRESPASSERS — INJURY BY VICIOUS ANIMAL. — The plaintiff, while walking across the defendant's field, was injured by the defendant's horse, which the defendant knew to be vicious. The public had been accustomed to use the field as a short cut, but the defendant had at times objected. The defendant had given no notice of the animal's vicious character. *Held*, that the plaintiff can recover. *Lowery* v. *Walker*, 55 Sol. J. 62 (Eng., H. L., Nov. 9, 1910).

American courts have held the owner of a vicious animal liable in such cases on the theory that even an admitted trespass by the plaintiff was no defense. *Marble* v. *Ross*, 124 Mass. 44; *Loomis* v. *Terry*, 17 Wend. (N. Y.) 497. As to the condition of the premises ordinarily, the landowner owes the trespasser no duty. *Lary* v. *Cleveland, etc. Ry. Co.*, 78 Ind. 323. He must warn the licensee, however, of hidden dangers of which he knows. See *Maenner* v. *Carroll*, 46 Md. 193. The line between the licensee and the merely technical trespasser is often very shadowy. It may not be unreasonable, therefore, to hold the landowner to the duty of giving notice of danger. But the further consideration of expediency arises, — how far the landowner shall be restricted in the